

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DENNIS DIMON,

Plaintiff,

VS.

C. A. No: 05-11073 NG

**METROPOLITAN LIFE
INSURANCE COMPANY, KEMPER
INSURANCE COMPANY,
MORGAN STANLEY DW, INC.,
MICHAEL B. LATTI, LATTI
ASSOCIATES, and LATTI &
ANDERSON LLP,**

Defendants.

**METROPOLITAN LIFE INSURANCE COMPANY'S
MOTION IN LIMINE
TO PRECLUDE HANDWRITING TESTIMONY**

ORAL HEARING REQUESTED

Defendant, Metropolitan Life Insurance Company (hereinafter "MetLife"), moves to preclude non-expert testimony regarding handwriting.

A witness may verify his own handwriting without an expert, but may not otherwise comment on handwriting.

Testimony that an individual piece of writing was written by a certain person, in the absence of actual observation of the event is, in reality, an opinion. A witness may testify to such an opinion only if he has special qualifications to do so. These may be based on expert training and experience in handwriting analysis in general, or they may be based upon experience with the handwriting of the individual in question. A witness who has neither, who can merely express an untrained comparison of two writings which are in evidence, supplies nothing to aid the jury.

See Ryan v. United States, 384 F.2d 379, 380 (1st Cir. Mass. 1967) *citing* Strother v. Lucas, 1832, 31 U.S. (6 Pet.) 763, 8 L. Ed. 573; McKay v. Lasher, N.Y.S. Ct., 1886, 42 Hun 270; Wigmore, Evidence §§ 570, 1997, 2004.

No expert has been identified to verify or comment on any handwriting.

WHEREFORE, Metropolitan Life Insurance Company prays that this Court issue an Order precluding testimony regarding handwriting.

REQUEST FOR ORAL ARGUMENT

MetLife respectfully requests pursuant to Local Rule 7.1(D) that the Court schedule this matter for oral argument. Oral argument will assist the Court in making its decision on MetLife's Motion.

Respectfully submitted by:

Defendant,

METROPOLITAN LIFE INSURANCE
COMPANY,

By its Attorneys,

/s/ James J. Ciapciak
James J. Ciapciak, BBO # 552328
Peter M. LeBlanc, BBO # 645302
CIAPCIAK & ASSOCIATES, P.C.
99 Access Road
Norwood, MA 02062
Tel: (781) 255-7401
Fax: (781) 255-7402

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing document was filed via the ECF system and will be served electronically through that system upon Counsel of Record on May 13, 2008.

/s/ James J. Ciapciak